

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4491 of 1996

to

FIRST APPEAL No 4518 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

STATE OF GUJARAT THRO' SPECIAL LAND ACQUISITION OFFICER

Versus

VIHABHAI ISHWARBHAI PATEL

Appearance:

First Appeal Nos. 4491 of 1996 to 4504 of 1996
MR. PRASANT G. DESAI, GP for Appellant

First Appeal Nos. 4505 of 1996 to 4518 of 1996
MS. HARSHA DEVAIN, AGP for Appellant

CORAM : MR.JUSTICE S.D.SHAH
Date of decision: 17/10/97

ORAL COMMON JUDGEMENT

1. Admit. No need to serve the claimants - respondents in view of the fact that Court is not inclined to interfere with the amount awarded for the reasons stated hereinafter.

2. The Appeals are being common, they are ordered to be heard together and the Appeals are ordered to be disposed of by this common judgment and order.

3. This group of First Appeals are filed by State of Gujarat through Special Land Acquisition Officer, Dharoi Canal Yojan, Visnagar, Mehsana, on its being aggrieved by the judgment and award of the Extra Assistant Judge, Mehsana, whereby he has awarded the enhanced amount of compensation in Land Acquisition Reference Cases No. 1033 of 1993 to 1060 of 1993 from Rs.2 per square meter to Rs.10 square meter.

4. In the present case, the Notification under Section-4 of the Land Acquisition Act, 1894 was issued and published in the Public Gazette on 19th January, 1979 followed by the Notification under Section-6 which was published in the Public Gazette on 20th September, 1979. Thereafter, after following the procedure required to be followed by law, on 22nd of July, 1990, the Special Land Acquisition Officer declared the award and awarded the amount of Rs.2 per square meter. The parcels of land in question are situated at village Piludara/Tavadia, district Mehsana. The claimants have on their being dissatisfied with the award given by the Land Acquisition Officer of Rs.2 per square meter, preferred the References under Section 18 and the Extra Assistant Judge, Mehsana, has by judgment and award under question, enhanced the compensation from Rs.2 to compensation at Rs.10 per square meter for village Piludara/Tavadia.

5. It may be stated that when the lands or parcels of land belonging to the claimants are subjected to acquisition for a public purpose, ordinarily, there are two methods which are applied, one being the method of determining the agricultural yield and possible earning therefrom after deducing the amount which is spent by the claimants towards seeds, electricity supply, usage of manure, fertilizers and usage of certified seeds, etc. The second method is a method of determining the market value based on the comparable sale instances. While applying this method, the court ordinarily shall have to be very cautious and shall have first to determine as to whether the sale instance on which the reliance is placed is one which is inspired sale instance with the prior

notice of possibility of acquisition of land.

6. In the present group of cases, it must be stated that though the claimants have based their claims both on yield method of agricultural produce as well as the method of comparable sale instances, the Reference Court has been quite alive and conscious of its duties and it has in Para-11 of the judgment, considered both the methods and has found that though the claimants have taken resort to the yield method of agricultural produce and their possible income per bigha from land, they have failed to establish their income and they have also failed to establish that they were taking three crops in three seasons and, therefore, it has rightly rejected the claim of the claimants based on the agricultural yield income. The court has also noticed that even Village Form No. 7/12 and various bills produced by the claimants, do not support their say that they were taking three crops and that there were three yields. The court has rightly found that the effort of the claimants was simply an exaggerated story and it was not safe to rely upon the said method. The second method for determining the compensation is one of comparable sale instance especially by finding out as to what a willing buyer/vendee would pay to the willing vendor. In this connection, the reliance was placed by the claimants on two previous judgments with respect to the same village, whereby the acquisition of the land was for the same purpose or as the acquisition of the land of village Bamosana which is situated just near to the village Piludara and their simadas are adjoining to each other. The land of village Piludara was acquired prior to the land of village Bamosana and in that view of the matter the sale instances of village Bamosana would be quite comparable sale instance for the purpose of determining the market value of village Piludara. The court has in this connection relied upon the reported decision of the Gujarat High Court and has discussed the principles which are required to be followed for the purpose of determining the correct market value of the land. Even the Apex Court has speaking through K. Ramaswami, J. taken the view that the court of law should not be unnecessarily charitable but at the same time reasonable market value of the land is required to be determined by applying any of the two methods available, namely, agricultural yield method and method of comparable sale instances. The effort of the court of law to reach the just, reasonable and fair compensation which could be paid to the owner of the land in question and keeping the aforesaid principle in mind, in my opinion, the Reference Court has rightly and justly awarded the additional

amount of Rs.8/- per square meter and there is no flaw in the reasoning of the Reference Court which would call for interference of this Court.

6. In the result, the First Appeals are dismissed.
There shall be no order as to costs in these First Appeals.

pnn